

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

In re	)	Case No. 06-20152
)	
DAVIS PETROLEUM CORPORATION,	)	Case No. 06-20153
)	
DAVIS OFFSHORE, L.P., and	)	Case No. 06-20154
)	
DAVIS PETROLEUM PIPELINE, LLC,	)	Jointly Administered under Case No. 06-
	)	20152
Debtors.)	
)	
)	
THE NANCY SUE DAVIS TRUST,	)	Adv. No. 06-02062
)	
Plaintiff,)	
)	
vs.	)	DECLARATION OF HOWARD J.
	)	STEINBERG IN SUPPORT OF
DAVIS PETROLEUM CORPORATION,	)	OPPOSITION OF PLAINTIFF THE
DAVIS OFFSHORE, L.P., DAVIS	)	NANCY SUE DAVIS TRUST TO
PETROLEUM PIPELINE, LLC, DAVIS	)	MOTIONS OF NEW DAVIS
PETROLEUM ACQUISITION CORP.,	)	DEFENDANTS AND ALBERT S. CONLY,
DAVIS PETROLEUM HOLDINGS CORP.,	)	LIQUIDATING TRUSTEE, FOR
DAVIS OFFSHORE PARTNERS, LLC, AND	)	SUMMARY JUDGMENT
ALBERT S. CONLY, LIQUIDATING)	
TRUSTEE UNDER LIQUIDATING TRUST)	
AGREEMENT OF DAVIS PETROLEUM)	
CORPORATION, DAVIS OFFSHORE, L.P.)	
AND DAVIS PETROLEUM PIPELINE, LLC,)	
)	
Defendants.)	

DECLARATION OF HOWARD J. STEINBERG

I do know, based upon my own personal knowledge, that the following facts are true and correct, and if called as a witness in this action, would and could testify as follows:

1. I am an attorney at law, duly licensed to practice in the State of California and have been admitted pro hac vice to appear before this Court. I am an attorney with the law firm of Irell & Manella LLP, and serve as counsel for plaintiff, The Nancy Sue Davis Trust (“ND Trust”), in this adversary proceeding.

2. Annexed hereto as Exhibit 1 is a true and correct copy of excerpts from the certified deposition transcript of Gregg Davis, volume 1, for his deposition taken on October 8, 2007, in this case.

3. Annexed hereto as Exhibit 2 is a true and correct copy of excerpts from the certified deposition transcript of Gregg Davis, volume 2, for his deposition taken on October 9, 2007, in this case.

4. Annexed hereto as Exhibit 3 is a true and correct copy of excerpts from the certified deposition transcript of Willem Mesdag, for his deposition taken on October 18, 2007, in this case.

5. Annexed hereto as Exhibit 4 is a true and correct copy of excerpts from the certified deposition transcript of Daniel E. Armel, for his deposition taken on October 25, 2007, in this case.

6. Annexed hereto as Exhibit 5 is a true and correct copy of excerpts from the certified deposition transcript of George Canjar, for his deposition taken on October 9, 2007, in this case.

7. Annexed hereto as Exhibit 6 is a true and correct copy of excerpts from the certified deposition transcript of William Hiltz, for his deposition taken on October 23, 2007, in this case.

8. Annexed hereto as Exhibit 7 is a true and correct copy of excerpts from the certified deposition transcript of Michael Diamond, for his deposition taken on October 17, 2007, in this case.

9. Annexed hereto as Exhibit 8 is a true and correct copy of excerpts from the certified deposition transcript of Danny D. Simmons, for his deposition taken on October 11, 2007, in this case.

10. Annexed hereto as Exhibit 9 is a true and correct copy of excerpts from the certified deposition transcript of Ciara Burnham, for her deposition taken on October 22, 2007, in this case.

11. Annexed hereto as Exhibit 10 is a true and correct copy of excerpts from the certified deposition transcript of Stuart Emlyn Davies, for his deposition taken on October 24, 2007, in this case.

12. Annexed hereto as Exhibit 11 is a true and correct copy of excerpts from the certified deposition transcript of Albert Conly, for his deposition taken on October 30, 2007, in this case.

13. Annexed hereto as Exhibit 12 is a true and correct copy of excerpts from the certified deposition transcript of Nancy Davis, for her deposition taken on October 19, 2007, in this case.

14. Annexed hereto as Exhibit 13 is a true and correct copy of a memorandum dated January 21, 2005, produced by the defendants¹ in this case and bates labeled NEWD78860-78865.

15. Annexed hereto as Exhibit 14 is a true and correct copy of an email exchange dated January 7-8, 2005, between Gregg Davis and Will Mesdag, produced by Red Mountain Capital Partners LLC and Willem Mesdag (“Red Mountain”) in this case and bates labeled RM18325.

16. Annexed hereto as Exhibit 15 is a true and correct copy of a letter dated January 31, 2005, from Willem Mesdag to Gregg Davis, produced by defendants in this case and bates labeled NEWD6617-6620. This letter was Exhibit 4 to the deposition of Gregg Davis taken on October 8, 2007, in this case.

¹ The “defendants” are Davis Petroleum Corporation; Davis Offshore, L.P.; Davis Petroleum Pipeline, LLC; Davis Petroleum Acquisition Corp.; Davis Offshore Partners, LLC; Davis Petroleum Investment, LLC; and Davis Petroleum Holdings Corp.

17. Annexed hereto as Exhibit 16 is a true and correct copy of an email exchange dated January 3, 2005, between Gregg Davis, William Hiltz, and Will Mesdag, produced by Red Mountain and bates labeled RM18137.

18. Annexed hereto as Exhibit 17 is a true and correct copy of an email exchange dated January 3-4, 2005, between Gregg Davis and Will Mesdag, produced by Red Mountain and bates labeled RM18056-18057.

19. Annexed hereto as Exhibit 18 is a true and correct copy of an email exchange dated February 2, 2005, between Gregg Davis, Will Mesdag, and “dvoyticky@yahoo.com,” produced by Red Mountain and bates labeled RM69482.

20. Annexed hereto as Exhibit 19 is a true and correct copy of an email exchange dated February 22-23, 2005, between Will Mesdag, Gregg Davis, and David Leuschen, produced by defendants and bates labeled NEWD371071-371072.

21. Annexed hereto as Exhibit 20 is a true and correct copy of an email exchange dated May 28, 2005, between Gregg Davis and Will Mesdag, produced by the defendants and bates labeled NEWD372703.

22. Annexed hereto as Exhibit 21 is a true and correct copy of an email exchange dated June 1-2, 2005, between Gregg Davis and Will Mesdag, produced by the defendants and bates labeled NEWD371608.

23. Annexed hereto as Exhibit 22 is a true and correct copy of an email dated June 8, 2005, from Bryan Jensen to Austin Beutner, produced by the defendants and bates labeled NEWD145341.

24. Annexed hereto as Exhibit 23 is a true and correct copy of an email exchange dated August 15-17, 2005, between “Armeld@aol.com,” Chris Teets, William Hiltz, “Burnham@evercore.com,” “sdavies@sankatyadvisors.com,” and Will Mesdag, produced by the defendants and bates labeled NEWD147687-147688. This email was deposition exhibit 7 during the deposition of Daniel Armel taken on October 25, 2007, in this case.

25. Annexed hereto as Exhibit 24 is a true and correct copy of an email dated June 3, 2005, from Gregg Davis to George Canjar, produced by the defendants and bates labeled NEWD326878-326879.

26. Annexed hereto as Exhibit 25 is a true and correct copy of an email exchange dated July 1, 2005, between Gregg Davis, George Canjar, Will Mesdag, and David Voyticky, produced by Red Mountain and bates labeled RM24111-24112.

27. Annexed hereto as Exhibit 26 is a true and correct copy of an email exchange dated July 4, 2005, between Gregg Davis and Will Mesdag, produced by Red Mountain and bates labeled RM20726.

28. Annexed hereto as Exhibit 27 is a true and correct copy of an email dated August 13, 2005, from Will Mesdag to Chris Teets, produced by Red Mountain and bates labeled RM14096. This email was deposition exhibit M-14 during the deposition of Willem Mesdag taken on October 18, 2007, in this case.

29. Annexed hereto as Exhibit 28 is a true and correct copy of an email exchange dated October 24-25, 2005, between Ciara Burnham, "sdavies@sankatyadvisors.com," Will Mesdag, and Chris Teets, produced by the defendants and bates labeled NEWD161254-161255.

30. Annexed hereto as Exhibit 29 is a true and correct copy of an email exchange dated October 25, 2007, between Christ Teets and Will Mesdag, produced by Red Mountain and bates labeled RM24165.

31. Annexed hereto as Exhibit 30 is a true and correct copy of a document titled "Davis Petroleum / Davis Offshore Business Overview," dated "April, 2005," produced by the defendants, and bates labeled NEWD42519-42556. This document was deposition exhibit 24 during the deposition of George Canjar taken on October 9, 2007, in this case.

32. Annexed hereto as Exhibit 31 is a true and correct copy of an email exchange dated July 29-August 1, 2005, between Austin Beutner, William Hiltz and Ciara Burnham, produced by the defendants and bates labeled NEWD146141.

33. Annexed hereto as Exhibit 32 is a true and correct copy of an email exchange dated July 15, 2005, between Ciara Burnham, Austin Beutner, and Mayer Bick, produced by the defendants and bates labeled NEWD146015-146016.

34. Annexed hereto as Exhibit 33 is a true and correct copy of a memorandum dated November 2, 2005, from Evercore Capital Partners to Macquarie Bank Ltd., produced by the defendants and bates labeled NEWD328116.

35. Annexed hereto as Exhibit 34 is a true and correct copy of an email dated July 6, 2005, from Gregg Davis to George Canjar, David Voyticky, Will Mesdag, and Michael Pierce, produced by the defendants and bates labeled NEWD146015-146016. This email was deposition exhibit 6 during the deposition of Daniel Armel taken on October 25, 2007, in this case.

36. Annexed hereto as Exhibit 35 is a true and correct copy of an email dated March 3, 2006, from Rhett Campbell to Bert Conly, produced by the defendants and bates labeled NEWD389194.

37. Annexed hereto as Exhibit 36 is a true and correct copy of an email dated December 3, 2005, from Will Mesdag to "hiltz@evercore.com," and "burnham@evercore.com," produced by Red Mountain and bates labeled RM178.

38. Annexed hereto as Exhibit 37 is a true and correct copy of an email exchange dated December 29-30, 2005, between Mayer Bick, Gregg Davis, Will Mesdag, "sdavies@sankatyadvisors.com," "armeld@aol.com," "jhardy@omm.com," Chris Teets, Eric Bunting, and Sean F. Sires, produced by Red Mountain and bates labeled RM6214.

39. Annexed hereto as Exhibit 38 is a true and correct copy of an email exchange dated October 13, 2005, between William Hiltz, Ciara Burnham, Austin and Beutner, produced by the defendants and bates labeled NEWD159595.

40. Annexed hereto as Exhibit 39 is a true and correct copy of a document dated March 9, 2006, titled "Davis Petroleum Corp., Evercore Capital Partners, Transactional Overview," produced by the defendants and bates labeled NEWD83794-83825.

41. Annexed hereto as Exhibit 40 is a true and correct copy of an email exchange dated October 17-18, 2005, between Bick Mayer, Ciara Burnham,

“wmesdag@davcos.com,” and “cteets@redmtncap.com,” produced by the defendants and bates labeled NEWD159961-159962.

42. Annexed hereto as Exhibit 41 is a true and correct copy of a memorandum dated November 2, 2005, from Austin M. Beutner, William O. Hiltz, Ciara A. Burnham, Mayer Bick, and Heather F. Innes to PPM America Capital Partners, produced by the defendants and bates labeled NEWD137651-137653.

43. Annexed hereto as Exhibit 42 is a true and correct copy of a document titled “Estimate of Reserves and Future Revenue to the Davis Petroleum Corporation Interest in Certain Oil and Gas Properties Located in Louisiana, Oklahoma, Texas, Wyoming, and the Gulf of Mexico as of July 1, 2005,” produced by the defendants and bates labeled NEWD8104-8156. This document was deposition exhibit 4 during the deposition of Albert Conly taken on October 30, 2007, in this case.

44. Annexed hereto as Exhibit 43 is a true and correct copy of an email exchange dated March 3, 2006-July 25, 2006, with attached NSA reserve report as of December 31, 2005. The email exchange, between Rick Talley, “bick@evercore.com”, George Canjar, and “mwinger@american-appraisal.com,” was produced by the defendants and bates labeled NEWD159153-159256. This document was deposition exhibit 11 during the deposition of Albert Conly taken on October 30, 2007, in this case.

45. Annexed hereto as Exhibit 44 is a true and correct copy of an email exchange dated April 20, 2005, with printed attachments, between Stephan R. Smith, George Canjar, Grace Drulias, and Carl Barragato, produced by the defendants and bates labeled NEWD434826-434836. This document was deposition exhibit 84 during the deposition of Danny Simmons taken on October 11, 2007, in this case.

46. Annexed hereto as Exhibit 45 is a true and correct copy of a document described as a “Presentation,” produced by the defendants and bates labeled NEWD74932-74953. This document was deposition exhibit 20 during the deposition of George Canjar taken on October 9, 2007, in this case.

47. Annexed hereto as Exhibit 46 is a true and correct copy of a document dated January 16, 2006, titled "Davis Petroleum Corp., A Management Buy-Out of a Privately Held North American Oil & Gas Exploration Company, Revised Investment Memorandum," produced by the defendants and bates labeled NEWD175169-175196.

48. Annexed hereto as Exhibit 47 is a true and correct copy of an email exchange dated December 8, 2005, between Ciara Burnham, Gregg Davis, William Hiltz, Austin Beutner, John Dillon, and Ada Marini, produced by the defendants and bates labeled NEWD171748-171750.

49. Annexed hereto as Exhibit 48 is a true and correct copy of a document dated January 16, 2006, titled "Davis Petroleum Corp., A Management Buy-Out of a Privately Held North American Oil & Gas Exploration Company, Revised Investment Memorandum," produced by the defendants and bates labeled NEWD175169-175196.

50. Annexed hereto as Exhibit 49 is a true and correct copy of a document dated February 13, 2006, titled "Davis Petroleum Corp., A Management Buy-Out of a Privately Held North American Oil & Gas Exploration Company, Investment Memorandum Supplement," produced by Red Mountain and bates labeled RM33857-33864.

51. Annexed hereto as Exhibit 50 is a true and correct copy of a document dated March 9, 2006, titled "Davis Petroleum Corp., Evercore Capital Partners, Transactional Overview," produced by the defendants and bates labeled NEWD83794-83825.

52. Annexed hereto as Exhibit 51 is a true and correct copy of an email exchange dated March 1, 2005, with printed attachments, between Kevin J. Leichter, Charles Kenworthy, "Armeld@aol.com," Skip Miller, "gdavis@davcos.com," Albert Conly, Susan Marcella, "smctopey@jw.com," Bruce Ruzinksy, "lcastro@mpglaw.com," "jhardy@omm.com," and Rhett Campbell, produced by the defendants and bates labeled NEWD381745-381754.

53. Annexed hereto as Exhibit 52 is a true and correct copy of a report titled "Evaluation of Davis Petroleum Corporation as of March 9th, 2006." The report, dated December 6, 2007, was prepared by RPS Scotia.

54. Annexed hereto as Exhibit 53 is a true and correct copy of an email dated February 28, 2006, with printed attachments, from George Canjar to Albert Conly, produced by FTI Consulting, Inc. (“FTI”) and bates labeled FTIE1220-1224.

55. Annexed hereto as Exhibit 54 is a true and correct copy of an email exchange dated February 21, 2006, between Tom Hensley, Rhett Campbell, and Gregg Davis, produced by the defendants and bates labeled NEWD389040.

56. Annexed hereto as Exhibit 55 is a true and correct copy of an email dated December 13, 2005, with printed attachments, from James R. Montague to John Dillon, produced by the defendants and bates labeled NEWD172567-172572.

57. Annexed hereto as Exhibit 56 is a true and correct copy of an email dated February 7, 2006, from Will Mesdag to Eric Bunting and Christ Teets, produced by Red Mountain and bates labeled RM4679.

58. Annexed hereto as Exhibit 57 is a true and correct copy of an email exchange dated August 3-4, 2005, between Gregg Davis, Mayer Bick, Ciara Burnham, William Hiltz, Stuart Davies, Chris Teets, and Sean F. Sires, produced by Red Mountain and bates labeled RM14540-14542.

59. Annexed hereto as Exhibit 58 is a true and correct copy of an email exchange dated March 29-30, 2006, between Will Mesdag, Gregg Davis, Chris Teets, and Sean F. Sires, produced by Red Mountain and bates labeled RM4705.

60. Annexed hereto as Exhibit 59 is a true and correct copy of a letter dated June 23, 2005 from Daniel E. Armel, produced by the defendants and bates labeled NEWD41540-41541.

61. Annexed hereto as Exhibit 60 is a true and correct copy of excerpts from the certified transcript of the motion hearing on March 9, 2006, before the Honorable Richard S. Schmidt, United States Bankruptcy Judge, in the Bankruptcy Case captioned *In re Davis Offshore, L.P.*, Case No. 06-20152 (the “Bankruptcy Case”).

62. Annexed hereto as Exhibit 61 is a true and correct copy of pages 1 through 40 of the Disclosure Statement filed in the Bankruptcy Case. This Disclosure Statement is document no. 17 on the docket for the Bankruptcy Case.

63. Annexed hereto as Exhibit 62 is a true and correct copy of Exhibit 2 to the Disclosure Statement filed in the Bankruptcy Case. This Disclosure Statement, including all exhibits thereto, is document no. 17 on the docket for the Bankruptcy Case.

64. Annexed hereto as Exhibit 63 is a true and correct copy of an email exchange dated February 28, 2006, between James Markus, Rhett Campbell, Greg Davis, Dean Swick, An Huynh, G. Christopher Miller, Jim Matthews, Tim Johnson, Albert Conly, and Jon Mitchell, produced by FTI and bates labeled FTIE231-232. This document was deposition exhibit 5 during the deposition of Albert Conly taken on October 30, 2007, in this case.

65. Annexed hereto as Exhibit 64 is a true and correct copy of a document dated December 1, 2005 and titled "Davis Petroleum Financial Projections," produced by the defendants and bates labeled NEWD76648-76665.

66. Annexed hereto as Exhibit 65 is a true and correct copy of the Proffer of Albert Conly, which was filed with the Disclosure Statement in the Bankruptcy Case, produced by the defendants and bates labeled NEWD5275-5277. This document was deposition exhibit 1 during the deposition of Albert Conly taken on October 30, 2007, in this case.

67. Annexed hereto as Exhibit 67 is a true and correct copy of an email dated June 27, 2005, with printed attachments, from Dee Patterson to George Canjar, produced by the defendants and bates labeled NEWD327693-327699.

68. Annexed hereto as Exhibit 68 is a true and correct copy of the Proof of Claim, filed by Red Mountain on April 20, 2006, in the Bankruptcy Case.

69. Annexed hereto as Exhibit 69 is a true and correct copy of Exhibit 5 to the Disclosure Statement filed in the Bankruptcy Case. This Disclosure Statement, including all exhibits thereto, is document no. 17 on the docket for the Bankruptcy Case.

70. Annexed hereto as Exhibit 70 is a true and correct copy of an email exchange dated May 9-10, 2005, between Gregg Davis, Will Mesdag, and David Voyticky, by the defendants and bates labeled NEWD364879.

71. Annexed hereto as Exhibit 71 is a true and correct copy of Exhibit 13 to the Disclosure Statement filed in the Bankruptcy Case. This Disclosure Statement, including all exhibits thereto, is document no. 17 on the docket for the Bankruptcy Case

72. Annexed hereto as Exhibit 72 is a true and correct copy of an email exchange dated March 1, 2006, with printed attachments, between Kevin J. Leichter, Charles Kenworthy, "Armeld@aol.com," Skip Miller, "gdavis@davcos.com," Albert Conly, Susan Marcella, "smctopey@jw.com," Bruce Ruzinsky, "lcastro@mpglaw.com," "jhardy@omm.com," and Rhett Campbell, produced by the defendants and bates labeled NEWD381745-381754. This document was deposition exhibit 6 during the deposition of Albert Conly taken on October 30, 2007, in this case.

73. Annexed hereto as Exhibit 73 is an email exchange I had with Jane Rue Wittstein on June 21, 2007. In this exchange, she acknowledges that O'Melveny & Myers was counsel to Evercore during the time period it represented Mr. Armel and that it represented Evercore in connection with performing services for the General Motors/GMAC transaction.

74. Annexed hereto as Exhibit 74 is an excerpt from the American Lawyer magazine which shows the deal players in a \$14 billion transaction involving General Motors' sale of an interest in GMAC. O'Melveny & Myers is listed as counsel for Evercore Partners.

75. Annexed hereto as Exhibit 75 are Exhibits A-1 and Exhibit A-2 to the Application filed pursuant to Bankruptcy Rule 2014 to employ FTI. In Exhibit A-1, there is no indication whether FTI reviewed its records to determine if it had a relationship with Evercore Capital Partners. Such a disclosure was mandatory. Exhibit A-2 reflects that FTI did have a current relationship with Bain Capital and Bank of America.

76. Annexed hereto as Exhibit 76 is a portion of the responses we received from FTI in response to a subpoena duces tecum. We requested documents that would evidence the

fees FTI billed to Bain Capital and Bank of America. As reflected in the responses that are attached, FTI refused to provide this information.

77. Annexed hereto as Exhibit 77 is a true and correct copy of a letter dated October 21, 2005 from William O. Hiltz to Daniel Armel, produced by the defendants and bates labeled NEWD83853-83866.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 7th day of December, 2007 at Los Angeles, California.

Howard J. Steinberg